

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition for
Reinstatement of:

Edward Allen Rose, M.D.,

Physician's and Surgeon's
Certificate No. G 88082

Petitioner

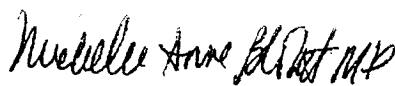
Case No. 800-2016-024360

ORDER DENYING PETITION FOR RECONSIDERATION

The Petition filed by Edward Allen Rose, M.D., for the reconsideration of the decision in the above-entitled matter having been read and considered by the Medical Board of California, is hereby denied.

This Decision remains effective at 5:00 p.m. on April 14, 2017.

IT IS SO ORDERED: April 14, 2017



Michelle Anne Bholat, M.D., Chair
Panel B

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Petition for)
Reinstatement of:)**

Edward Allen Rose)

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**Physician's and Surgeon's)
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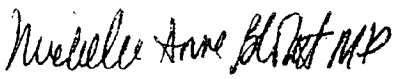
DECISION

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on April 14, 2017.

IT IS SO ORDERED March 16, 2017.

MEDICAL BOARD OF CALIFORNIA

**By: 
Michelle Anne Bholat, M.D., Chair
Panel B**

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement of:

EDWARD ALLEN ROSE, M.D.,

Physician's and Surgeon's
Certificate No. G88082

Petitioner.

Case No. 800-2016-024360

OAH No. 2016110819

PROPOSED DECISION

Mary-Margaret Anderson, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter on January 30, 2017, in Oakland, California.

Petitioner Edward Allen Rose, M.D., represented himself.

Greg W. Chambers, Deputy Attorney General, represented the Office of the Attorney General, Department of Justice.

The record closed on January 30, 2017.

FACTUAL FINDINGS

1. On July 18, 2007, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. G88082 to Edward Allen Rose, M.D. (Petitioner).

2. On March 27, 2013, Linda K. Whitney, Executive Director of the Board, signed an Accusation against Petitioner alleging cause for discipline for unprofessional conduct. Petitioner and his wife, Karen Eileen Rose, M.D., worked with the Kaiser Permanente Medical Group in California. J.L. was a patient of both physicians. It alleges:

At some point, [Petitioner], Karen Eileen Rose, M.D. and Patient J.L. developed a social relationship. In November 2011, Patient J.L. was at the home of [Petitioner and Karen]. The three consumed large amounts of alcohol and [Petitioner and

Karen] engaged in sexual activities with Patient J.L. Thereafter, [Petitioner] and Patient J.L. engaged in a sexual relationship for approximately three months.

3. Effective April 12, 2013, the Board adopted a Decision and Order accepting a Stipulated Surrender of License. The Decision and Order provides that Petitioner may petition for reinstatement after the passage of three years and that for the purposes of a reinstatement petition, the allegations in the Accusation will be deemed admitted by Petitioner.

4. On June 12, 2016, Petitioner signed a Petition for Reinstatement of Revoked/Surrendered Certificate, and filed it with the Board. This hearing followed.

Petitioner's evidence

5. Petitioner graduated from the University of Michigan Medical School in 1982, and completed a residency in family medicine at Providence Hospital in Southfield, Michigan, in 1985. He practiced in a variety of capacities in Michigan until 2008, when he moved to California to take a position at Kaiser Permanente in Santa Rosa. Petitioner testified that the couple left behind family and friends, but thought it would be fun. He found the job at Kaiser "not great" in that he was not able to do the research and writing and engage in the practice of obstetrics and pediatrics that he wanted to do. He and Karen never fit in with the physicians at Kaiser and they were lonely.

In 2011, Petitioner underwent coronary artery bypass surgery for progressive angina. While recovering, he and Karen visited Michigan, where Karen suffered a cardiac arrest. Petitioner successfully performed CPR on Karen and she underwent diagnostic procedures. The couple then returned to California and Petitioner resumed his practice at Kaiser.

6. Patient J.L. was a patient of both Petitioner's and Karen's. J.L. and Karen became friends, and Petitioner recalls in his Board interview that they had J.L. "over for dinner several times." On one occasion in November 2011, Petitioner states, they "all got drunk" and there followed sexual activity that he did not further describe. Petitioner continued to see J.L. as a patient and began a sexual relationship with her that continued approximately three months. When he broke off the relationship, J.L. reported it to Kaiser, who terminated Petitioner and reported him to the Board. J.L. sued Kaiser and the lawsuit was settled.

7. Petitioner explains his conduct with J.L. by describing the time period as very stressful. He notes that he and Karen were in Northern California where there is a "party atmosphere," and a focus on wine and drinking alcohol. They were away from their support systems in Michigan and still recovering from illness. He believes that these factors played a role in the relationship he developed with J.L. He said that "J.L. came in like an angel . . . to save us both" during this "incredibly traumatic" period. Petitioner is remorseful. He knew the relationship was wrong but he did not have the strength to stop. He knows he hurt J.L.,

and he “broke it off when [he] realized [he] was impaired.” Petitioner was “humiliated and embarrassed because [he] had become so weak and desperate.” Petitioner denies having a problem with alcohol use then or now.

8. After surrendering his medical license, Petitioner returned home to Michigan. Petitioner has worked in a variety of positions, including in a casino and in sales, in the last four years. He now works full time for Home Depot, where he has been successful working his way up to a supervisory position. Petitioner has also done medical writing, but is stymied by the status of his medical license. He has also taught nursing students and medical assistants at ITT Tech.

9. Petitioner asserts that he has kept up with the medical field by editing for Cactus Communications and developing curriculum for ITT. He has taken continuing medical education through online courses and submitted 41 Letters of Participation from the American Academy of Family Physicians.

10. Petitioner saw therapist Eric Ryan, Ph.D., from April 2012 until July 17, 2013. A letter from Dr. Ryan dated May 30, 2016, confirms this relationship and Dr. Ryan reported that Petitioner made excellent progress with his “Depression, significant anxiety” and “pronounced stressors.”

Petitioner also offered a short note from Robert Garcia, M.D., dated June 7, 2016. That letter states that Dr. Garcia saw Petitioner on May 12, 2016, for a psychiatric evaluation and that he found no evidence of any psychological issues or psychiatric diagnoses that would “prevent him from re-applying for his medical license.”

11. Petitioner asserts that he took a course in professional boundaries and wrote in his narrative statement that it included “a 12-week maintenance of accountability series (see attached documentation).” He did not identify the course by name, but testified that it was the equivalent of a course offered through PACE¹ at the University of California School of Medicine. No such document, however, was attached to the petition in the administrative record and there is no reliable corroboration of Petitioner’s assertion.

12. Petitioner testified that he has participated in charitable events conducted by Home Depot. He presented two letters expressing appreciation to the Home Depot for financial support. One is from a school and addressed to The Home Depot and the other is from a church group and addressed to a Mr. Jeff Hartshaw, care of The Home Depot.

13. If reinstated and placed on probation, Petitioner plans to travel to Santa Rosa for the required days per month, stay with friends, and practice medicine to fulfill the in-state practice requirement. He may practice in an urgent care setting in Michigan, or engage in medical research and writing activities. Petitioner feels that he has successfully redefined himself so that he is not arrogant about being a physician; he sees practicing medicine as

¹ The Physician Assessment and Clinical Education Program.

having a “certain skill and knowledge set.” Petitioner also asserts that he is “back to sound and clear boundaries” and is very excited about returning to medicine.

Professional references

14. Marianna A. Post, M.D., a Florida physician, wrote an undated letter in support of Petitioner. Dr. Post has known Petitioner since her residency in 2004, when Petitioner was a faculty member. Petitioner was a role model for Dr. Post for many years. She feels that his poor judgment resulted from moving to California away from friends and family and that his wife’s illness caused him to be very isolated and depressed. Dr. Post believes that Petitioner has recovered from his mistakes and has “worked hard to stay a respectful member of society,” including by working minimum wage jobs. She opined that Petitioner is an incredible physician, has learned from his mistake and would never jeopardize the wellbeing of any patient. She supports his re-licensure.

15. Raouf R. Seifeldin, M.D., FAAFP, is licensed in Michigan. In a letter dated May 1, 2016, Dr. Seifeldin wrote that his letter is submitted to verify Petitioner’s “activities since he left the practice of medicine.” Dr. Seifeldin described in detail Petitioner’s work activities since 2011, including his brief stint as a professional card dealer, work in sales, establishment of a company called Twenty Poms, LLC for the purpose of medical writing and editing, and his teaching. Dr. Seifeldin wrote that they have had “numerous conversations about the events that led up to the surrender of his license, and he is deeply contrite and remorseful about the events. He has developed an excellent understanding of his behaviors and has recovered from the events that triggered his behavior.” Dr. Seifeldin opined that Petitioner’s boundaries are intact, and that he is not at risk of recidivism.

16. Norm Enriquez, Pharm. D., is the Senior Vice President of The Medical Affairs Company in Santa Barbara. On April 18, 2016, Enriquez wrote a letter of “personal endorsement in support of the re-instatement of [Petitioner’s] medical license.” He is a pharmaceutical industry consultant and has known Petitioner for three years. Enriquez wrote of his interest in Petitioner using “his scientific training and clinical skills as a medical writer.” He believes this role would be ideal for Petitioner, but that some companies “ask for licensing status as part of their due diligence.” Hence, Petitioner’s re-licensure would validate Petitioner’s scientific credibility.

LEGAL CONCLUSIONS

1. Petitioner bears the burden of proving, by clear and convincing evidence, that he is reformed, rehabilitated, and safe to practice medicine to the extent that he is entitled to have his license restored. Proof of rehabilitation must be strong and sufficient to overcome the findings underlying the stipulated surrender. (*Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315-316.) Business and Professions Code section 2307, subdivision (e), lists factors that may be considered when determining whether the burden has been met:

All activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability.

2. Petitioner has clearly made efforts to move on from the events that led to his surrender of his California medical license, and he is confident that he will not reoffend. But the evidence did not demonstrate rehabilitation sufficient to meet his burden to the required clear and convincing standard. Petitioner is undoubtedly remorseful and has undergone soul searching. He has paid a high price for his conduct. But his attempts to attribute his extreme unethical behavior to the "party atmosphere" in northern California; a feeling of not fitting in with the medical community there; and health problems; were very troublesome. Petitioner practiced medicine in Michigan for approximately 23 years before moving to California. The idea that the facts he described caused such outrageous conduct strains credulity.


Petitioner's evidence also fell short in other respects. He attempted to demonstrate volunteer and charitable work in the community, but the letters he presented were written to the management of Home Depot and do not corroborate his participation. Whether or not he did participate, these were not volunteer efforts that he undertook outside of his employment. He stated that he completed a boundaries course, but presented no documentation of the course. The reference letters were not impressive and one of them is from a pharmaceutical representative who apparently seeks to employ Petitioner. There is no meaningful evaluation from a mental health professional to support Petitioner's assertions.

In *Housman*, the court concluded by stating that a physician seeking reinstatement "must build a case of rehabilitation in a positive fashion . . . such as to leave no doubt of his sincerity to again become a useful member of the medical profession." (*Housman v. Board of Medical Examiners, supra*, 84 Cal.App.2d 308, 319.) Petitioner's evidence fell short of this standard. It would not be in the public interest to grant the petition and restore Petitioner's license, even on a probationary basis, at this time.

ORDER

The Petition for Reinstatement of Petitioner Edward Allen Rose, M.D., is denied.

DATED: February 14, 2017

DocuSigned by:

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MARY-MARGARET ANDERSON
Administrative Law Judge
Office of Administrative Hearings